

COMMITTEE ON HEALTH

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2823

(Reference to printed bill)

1 Page 1, line 32, after the period insert "NOTWITHSTANDING ANY LAW TO THE CONTRARY,"

2 Between lines 33 and 34, insert:

3 "Sec. 2. Section 36-3206, Arizona Revised Statutes, is amended to
4 read:

5 36-3206. Enforcement or challenge of a directive or decision;
6 judicial proceedings

7 A. An interested person may file a verified petition with the superior
8 court to determine the validity or effect of a health care directive or the
9 decision of a surrogate.

10 B. The petition shall include the following information:

11 1. The name and current location of the patient and any surrogate
12 authorized to make decisions for the patient.

13 2. The name and address of any health care provider known by the
14 petitioner to be providing health care to the principal.

15 3. A description or a copy of the health care directive.

16 4. The judicial relief sought by the petitioner.

17 C. ON THE FILING OF THE PETITION THE COURT SHALL ENTER A TEMPORARY
18 ORDER DIRECTING COMPLIANCE WITH SECTION 36-3203, SUBSECTION E. NOTICE OF
19 THIS ORDER SHALL BE PROVIDED BY PERSONAL SERVICE ON THE SURROGATE, THE
20 PATIENT, THE HEALTH CARE PROVIDERS IMMEDIATELY RESPONSIBLE FOR THE PATIENT'S
21 CARE AND OTHER PERSONS THE COURT REQUIRES TO BE NOTIFIED.

22 ~~C.~~ D. The court shall review the petition, any other pleadings on
23 file and any evidence offered by the petitioner to determine if it should
24 order temporary orders without a further hearing. The court may enter a
25 temporary order directing the provision or the withholding of specific
26 medical treatment pending a further hearing if the court determines that
27 there is reasonable cause to believe that health care decisions are being
28 made by a surrogate or a health care provider that derogate the patient's

1 wishes or, if the patient's wishes are not known, the patient's best
2 interests.

3 ~~D.~~ E. The court shall schedule and conduct a hearing within five
4 working days of the filing of a petition. Notice shall be provided by
5 personal service on the surrogate, the patient, the health care providers
6 immediately responsible for the patient's care, and other persons the court
7 requires to be notified.

8 ~~E.~~ F. On the filing of the petition the court may:

9 1. Appoint an attorney for the patient if it appears that this is in
10 the patient's best interests.

11 2. Appoint an investigator as provided under section 14-5308 or a
12 physician, or both, to evaluate the patient and submit a written report to
13 the court before the hearing.

14 3. Enter other temporary orders that the court determines are
15 necessary and appropriate to protect the wishes or the best interests of the
16 patient, including an order exercising the power of a guardian or appointing
17 a temporary guardian as provided under section 14-5310.

18 ~~F.~~ G. A person filing a petition under this section is not required
19 to post a bond unless the court determines that a bond is necessary to
20 protect the interests of any party.

21 ~~G.~~ H. On notice and a hearing, the court may enter appropriate orders
22 to safeguard the wishes of the patient. If the court is unable to determine
23 those wishes, the court may enter appropriate orders to safeguard the
24 patient's best interest. These orders may include:

25 1. Appointing a surrogate if the procedural requirements of title 14,
26 chapter 5, article 3 have been met.

27 2. Removing an agent or any other surrogate and appointing a
28 successor.

29 3. Directing compliance with the terms of the patient's health care
30 directive including the provisional removal or withholding of treatment if
31 the court finds that this conforms with the patient's wishes or, if the
32 patient's wishes are not known, is in the patient's best interest.

1 4. Directing the transfer of the patient to a suitable facility or to
2 the care of a health care provider who is willing to comply with the
3 patient's wishes.

4 5. Assessing court costs and attorney fees against a party found to
5 have proceeded in bad faith.

6 ~~H.~~ I. Notwithstanding a person's incapacity, the court may deny a
7 petition to appoint a guardian for that person based on the existence of a
8 valid and unrevoked health care directive.

9 ~~I.~~ J. A guardian appointed pursuant to this section is immune from
10 civil and criminal liability to the same extent as any other surrogate
11 pursuant to section 36-3203, subsection D."

12 Renumber to conform

13 Amend title to conform

and, as so amended, it do pass

BOB STUMP
Chairman

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3/5/08
H:jmb